

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Gilles ELLIOT et al.

Application No.:

10/549,257

Filed:

September 12, 2005

For: HEATING AND VENTILATION
AND/OR AIR CONDITIONING
DEVICE WITH A COMPACT
CONSTRUCTION FOR A MOTOR
VEHICLE PASSENGER
COMPARTMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Docket No.:

TFR0210

Group Art Unit:

3744

Examiner:

Ford, John K.

I hereby certify that the enclosed Information Disclosure Statement and attached SB/08/A and/or SB/08/B are being transmitted via EFS to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

July 17, 2009
Date

/Diane Jerome/
Diane Jerome

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Dear Sir:

Applicant(s) submit(s) herewith patents, publications, or other information, of which they are aware that they believe may be material to the patentability and/or examination of this application, and in respect of which, there may be a duty to disclose in accordance with 37 C.F.R. §1.56.

The filing of this Supplemental Information Disclosure Statement shall not be construed as a representation that a search has been made (37 C.F.R. 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability and/or examination, or that no other material information exists. The filing of this Supplemental Information Disclosure Statement shall not be construed as an admission against interest in any manner.

☒ Submitted herewith is Form PTO/SB/08A and/or PTO/SB/08B (Modified) listing patents, publications, or other information for consideration by the Office.

COPIES PROVIDED:

☒ Legible copies of all items listed on Form PTO/SB/08A and/or PTO/SB/08B accompany this Supplemental Information Disclosure Statement, except copies of U.S. patents, U.S. patent application publications, copies of U.S. applications that were filed on or after June 30, 2003, and copies of U.S. applications that were filed before June 30, 2003 that are available in the Image File Wrapper System.

- ☐ Under 35 U.S.C. §120, this application relies on the earlier filing date of prior application Serial No. [____], filed on [____]. The following references were submitted to and/or cited by the Office on this prior application and are therefore not required to be provided in this application:
- ☐ In accordance with 37 C.F.R. §1.98(c), a copy of only [____] is being submitted with this Supplemental Information Disclosure Statement, and is cumulative of the following patents or publications listed on Form PTO/SB/08A:

FOREIGN LANGUAGE DOCUMENTS

- ☐ There are no foreign language documents listed on Form PTO/SB/08A.
- ☒ English language abstract for the following non-English references are enclosed:

<u>Foreign Patent Document</u>	<u>Publication Date</u>	<u>Name of Patentee or Applicant of Cited Document</u>
DE 100 57 039 A1	06/28/2001	Behr GmbH & Co.
DE 196 26 441 A1	01/15/1998	Sommer-Allibert-Lignotock GmbH
FR 2 637 548 A1	04/13/1990	Valeo SA
DE 197 39 578 C2	03/11/1999	Behr GmbH & Co.
DE 100 42 683 A1	03/14/2002	Behr GmbH & Co.

- ☒ Submitted herewith is an English translation of the following foreign language patents, publications or information or of portions of those patents, publications or information considered to be material:

<u>Foreign Patent Document</u>	<u>Publication Date</u>	<u>Name of Patentee or Applicant of Cited Document</u>
FR 2 852 271 A1	09/17/2004	Valeo Climatisation SA
EP 1 601 543 B1	05/16/2007	Valeo Systemes Thermiques

- ☒ No English language translations of the foreign language patents, publications or information or parts thereof are readily available, except for those listed above.
- ☐ The following foreign language documents are believed to be the equivalent or substantial equivalent of the English language documents identified below, which are also submitted herewith:
- ☐ Submitted herewith is an English language version of a PCT search report listing information not in the English language and indicating the degree of relevancy found by the International Bureau of WIPO, in satisfaction of the requirement (under 37 C.F.R. §1.98(a)(3)) for a concise explanation of the relevance of non-English information.
- ☒ A concise explanation of the relevance of the following listed non-English language information is included as presently understood by the individual designated in 37 C.F.R. §1.56(c) most knowledgeable about the content of the information as set forth below:

**Foreign Patent
Document**

Opposition
before the EPO
against Patent
No.
EP 1 601 543

Explanation of Relevance

The first argument detailed by the Opponent is that the European patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. The Opponent also stated that FR 2 637 548, EP 0 458 705 and FR 2 735 426 are novelty destroying documents and consequently, the main claim 1 is not new over those three prior art references considered independently. Finally, the Opponent argued that DE 100 42 683 in combination with DE 196 26 441 or EP 0 357 801 make the invention as defined with the main claim 1 obvious for the skilled person. The Opponent considered that the skilled person would easily derive the subject matter of the present invention from teachings of DE 100 42 683 in view of DE 196 26 441 or EP 0 357 801. At the present stage of the proceeding, the Patentee has filed a counter-argument to the Opponent's written statement without amending the set of claims as granted. The EPO has not yet issued a preliminary opinion regarding their respective positions.

- ☐ A concise explanation of the relevance of the following listed non-English language information is set forth in the above-identified specification:

CERTIFICATION:

- ☐ The Supplemental Information Disclosure Statement transmitted herewith is being filed **within** three (3) months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office Action on the merits, whichever event occurs last. 37 C.F.R. §1.97(b). Accordingly, it is believed that no certification or fee is due.
- ☒ The Supplemental Information Disclosure Statement transmitted herewith is being filed **after** three (3) months of the filing date of the application or the date of entry into the national stage of an international application and after the mailing date of the first Office Action on the merits, but **before** the mailing date of either a final action under 37 C.F.R. §1.113 or a Notice of Allowance under 37 C.F.R. §1.311, whichever occurs first. Accordingly, I hereby certify that:
- ☐ each item of information contained in the Supplemental Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of the Information Disclosure Statement; 37 C.F.R. §1.97(e)(1); **OR**
- ☐ no item of information contained in the Supplemental Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge as the person signing this certification after making reasonable inquiry, no item of information contained in the Supplemental Information Disclosure Statement was known to any individual designated in §1.56(c) more than three (3) months prior to the filing of this statement; 37 C.F.R. §1.97(e)(2); **OR**
- ☒ Applicant elects the option to pay the fee set forth in 37 C.F.R. §1.17(p) for submission of a Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(c). If a check is not enclosed, please charge the **\$180.00** IDS submission fee to Howard & Howard Attorneys PLLC **Deposit Account No. 08-2789**. A duplicate of this paper is enclosed.
- ☐ The Supplemental Information Disclosure Statement transmitted herewith is being filed **After a Final Action** under 37 C.F.R. §1.113, or **After a Notice of Allowance** under 37 C.F.R. §1.311, whichever occurs first, but is being filed on or **Before Payment of the Issue Fee**. Accordingly, I hereby certify that:
- ☐ each item of information contained in the Supplemental Information Disclosure Statement was

cited in a communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to the filing of the statement; 37 C.F.R. §1.97(e)(1); **OR**

- ☐ no item of information contained in the Supplemental Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to my knowledge as the person signing this certification after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to any individual designated in §1.56(c) more than three (3) months prior to the filing of this statement; 37 C.F.R. §1.97(e)(2); **AND**
- ☐ Applicant hereby petitions for consideration of this Supplemental Information Disclosure Statement; 37 C.F.R. §1.97(d)(2)(ii). If a check is not enclosed, please charge the petition fee of **\$180.00** Howard & Howard Attorneys PLLC **Deposit Account No. 08-2789**. A duplicate of this paper is enclosed.

The Commissioner is authorized to charge Howard & Howard Attorneys PLLC Deposit Account No. 08-2789 for any additional fees due hereunder.

Respectfully submitted,

Reg. No.: **59,511**

/Christopher M. Francis/
Christopher M. Francis

July 17, 2009
Date

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